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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/114,962 07/14/98 BREED

D AJI-192

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PM82/0604

EXAMINER
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CULBRETH, F	
ART UNIT	PAPER NUMBER

3611  
DATE MAILED:

19  
06/04/01

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 19

Application Number: 09/114,962  
Filing Date: July 14, 1998  
Appellant(s): BREED, DAVID

MAILED

JUN 04 2001

GROUP 3600

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For Appellant

EXAMINER'S ANSWER

Art Unit: 3611

This is in response to appellant's brief on appeal filed 3/19/01.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 3/19/01 has not been entered.

The amendment after final rejection filed on 4/6/01 has been entered.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-7, 9-14, 16-19, 21-24 and 26-31 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

3,791,667	HAVILAND	2-1974
4,666,182	BREED	4-1987
6,015,162	SPIES et al	1-2000
3,701,903	MERHAR	10-1972
5,273,309	LAU et al	12-1993

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-7, 9-14, 16-19, 21-24, and 26-31 are rejected under 35 U.S.C. 103.

This rejection is set forth in prior Office Action, Paper No. 6.

**(11) Response to Argument**

The Appellant's arguments filed 3/19/01 have been carefully considered but deemed not persuasive in overcoming the rejection.

On pages 7-9 of the Appeal Brief the Appellant argues that it would not be obvious to combine Breed with Haviland because Breed is designed as a non-crush zone sensor whereas Haviland combined with Breed would result in the sensor being in the crush zone because the door of the vehicle is always in the crush zone. The Appellant also argues on pages 7-9 that Breed is designed to use very little energy since it is not in the crush zone. The examiner has not found this persuasive because Breed teaches at column 1, lines 25-28 and column 1, lines 42-45 placing the sensors

not only outside the frontal crush zone but preferably in the passenger compartment, which would include interior doors such as Haviland. The Appellant's argument that the entire door is a crush zone is not persuasive. "Crush zone" in air bag technology (and in the context Breed uses it) usually means an area adjacent the outside of the vehicle that is readily crushed in a serious accident. It is noted that the entire vehicle is potentially a "crush zone", as no part of a vehicle is totally safe in an accident of sufficient severity or circumstance (i.e., if an automobile goes under a truck rear end up to the dashboard, then the fire wall is even not outside the "crush zone" as purported by Breed at column 1, lines 18-25). Hence, in the combination it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haviland to include a sensor adjacent the interior of the passenger compartment in the door where Haviland's restraint devices are already located in view of Breed's teaching of a unit with the air bag and sensor together in a non-crush zone area including the passenger compartment. In the combination, since Breed would still be in a non-crush zone in the combination, it would encounter the necessary force that is designed into the system for activation.

On pages 9-10 of the Appeal Brief, the Appellant argues that the combination of Haviland, Breed and Merhar would not be obvious because Breed is to be used outside a crush zone and Merhar is for use inside a crush zone (i.e., so that crystal 10 is compressed between mass 43 and vehicle 41). The Appellant also argues that Merhar does not meet the deficiencies of Haviland and Breed above. However, as noted above, Haviland and Breed meet all limitations except those met by Merhar. Moreover,

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it is noted that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of reference makes obvious to one of ordinary skill in the pertinent art. In this case, Merhar makes obvious that a piezoelectric crystal may be used to measure force in an air bag sensor, and the combination would not include the bodily incorporation of the mass pressing the crystal against the vehicle.

Also on page 10 of the Appeal Brief, the Appellant remarks that Spies et al does not teach the inflator means comprising a primer arranged in the same housing as the propellant. However, the claim language of claim 9 does not require that the primer be inside the same housing as the propellant, but only that the inflator means comprise a primer arranged in the inflator housing (see lines 1-2 of claim 9), which Spies et al makes obvious as broadly recited (noting primer 4 in vessel 5 that projects into the housing 7 of the inflator). Similarly, noting page 11 of the Appeal Brief, although the primer and inflator are in separate housings, Spies et al still meets the broad limitations of claims 21 and 26 in that the primer is "arranged in" the inflator housing in that it projects into a recess in the housing.

On page 12 of the Appeal Brief, the Appellant argues that one would not be motivated to modify Breed, whose sensor housing is inside the inflator housing, to include the sensor housing outside the inflator housing as desired by Spies et al. However, the examiner has not found this persuasive because Spies et al provides motivation that meets claim 31's recitation of placing the housing outside the inflator housing (for proper disposal), and doing so would not "destroy" Breed in the

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combination any more than any proper combination of teachings under 35 USC 103 (i.e., under any proper 103 rejection, some teaching of a reference is going to be modified).

Finally, regarding issue 6 and the Conclusion on pages 12-13 of the Appeal Brief, one cannot show non-obviousness by addressing references individually where, as here, the rejections are based on combinations of references (i.e., the other cited references teach those features not disclosed by Lau et al).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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5/31/01

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May 30, 2001

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